IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

WEDNESDAY, THE 14TH FEBRUARY 2007 / 25TH MAGHA 1928

OP.No. 25110 of 2002(L)

PETITIONER:

S.A. ABOOBACKER, AGED 46,
SON OF SHAHUL HAMEED, YATHRA ASSOCIATES
BED ROLL SERVICES, NEAR ARYAVAIDHYASALA,
CHINNACADA, QUILON.

BY ADV. SMT.P.V.KOCHUTHRESIA

RESPONDENTS:
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1. **SRI. C. VIKRAMAN NAIR, FORMER SENIOR DIVISIONAL COMMERCIAL MANAGER, TRIVANDRUM NOW PRINCIPAL OF RAILWAY ZONAL, TRAINING COLLEGE, TRICHY.**

2. **CHIEF COMMERCIAL MANAGER, SOUTHERN RAILWAY, CHENNIA - 600 003.**

3. **THE SENIOR DIVISIONAL COMMERCIAL MANAGER, TRIVANDRUM DIVISION, SOUTHERN RAILWAY, TRIVANDRUM.**

4. **SRI. S. JAYADEV, SON OF SUNDARESAN, POOMADHURA VILAKAM, PACHALLOOR P.O., THIRUVANANTHAPURAM.**

BY ADV. SRI.K.V.SADANANDA PRABHU,SR.SC.RAILWAYS
SRI.D.PEETHAMBARAN
SRI.R.ANIL
SRI.K.V.SADANANDA PRABHU
SRI.MURALEEDHARA KAIMAL, ADDL.CGSC

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 14/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP.NO.42572/2002 IN OP. 25110/2002

DISMISSED

14.02.2007 **SD/- KURIAN JOSEPH, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS

E.XT.P1:- COPY OF THE ADVERTISEMENT OF PUBLICATION INVITING TENDRS FOR THE SUPPLY OF BED ROLLS IN VARIOUS TRAINS INCLUDING T.NOS.6347/6348.

EXT.P2:- COPY OF THE EXTENSION ORDER OF CONTRACT DT.9.5.02.

EXT.P3:- COPY OF THE TENDER FORM OF C.KRISHNAKUMAR DT.11.4.01.

EXT.P4:- COPY OF THE TENDER FORM OF C.KRISHNAKUMAR DT.16.4.02.

EXT.P5:- COPY OF THE ORDER DT.10./7.01 AWARDING P3 TENDER TO KRISHNAKUMAR.

EXT.P6:- COPY OF THE COMPLAINT BY R.RAJENDRAN NAIR DT.25.7.01 TO THE VIGILANCE COMMITTEE.

EXT.P7:- COPY OF THE MINUTES OF TENDER COMMITTEE DT.2.7.01 REMOVING NAZIR AND ALLOTTING SEND CONTRACT TO C.KRISHNAKUMAR.

EXT.P8:- COPY OF THE AWARD OF CONTRACT DT.8.5.01 IN FAVOUR OF 4TH RESPONDENT.

EXT.P9:- COPY OF THE REPRESENTATION OF THE PETITIONER DT. 10.5.02 TO THE 3RD RESPONDENT.

EXT.P10:- COPY OF THE APPEAL DT.24.5.02 B Y THE PETITIONER TO THE 2ND RESPONDENT.

EXT.P11:- COPY OF THE JUDGMENT DT.5.6.02 IN OP. NO.13886/02 OF THIS HONOURABLE COURT.

EXT.P12:- COPY OF THE ORDER OF RESPONDENT NO.2 ON EXT.P10 APPEAL DT.23.7.02.

EXT.P13:- COPY OF THE REPRESENTATION BY THE PETITIONER TO 2ND RESPONDENT DT.13.8.02.

EXT.14:- COPY OF THE SHOW CAUSE NOTICE DT.7.6.02 BY 3RD RESPONDENT TO THE PETITIONER.

EXT.P15:- COPY OF THE EXPLANATION OF THE PETITIONER DT.25.6.02 TO EXT.P14 SHOW CAUSE.

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EXT.P16:- COPY OF THE INTIMATION DT. 10.1.01 INFORMING DEFECTIVE CONTRACT SERVICE OF C.KRISHNAKUMAR.

EXT.P17:- COPY OF THE INTIMATION OF DEFECTIVE SERVICES OF C. KRISHNAKUMAR DT.20.8.01.

EXT.P18:- COPY OF THE AMENITY CHECK REPORT OF DCM DT.20.3.01.

EXT.P19:- COPY OF THE RELEVANT PAGES OF POS ISSUED BY THE PRINCIPAL DIRECTOR OF AUDIT OF HIS INSPECTION IN DECEMBER , 01.

EXT.P20:- COPY OF THE AGREEMENT EXECUTED BY THE PETITIONER AS 1ST PARTY AND SAID MANILAL AS 2ND PARTY.

EXT.P21:- COPY OF THE NOTICE ISSUED BY PETITIONER TO MANILAL DT.10.8.00.

EXT.P22:- COPY OF THE RECEIPT DT.10.5.02.

EXT.P23:- COPY OF THE ACCOUNTS AS WRITTEN ON 6.3.02.

EXT.P24:- COPY OF THE POLICE COMPLAINT BEFORE THE THAMBANUR POLICE CIRCLE INSPECTOR DT.12.2.02.

EXT.P25:- COPY OF THE REQUEST LETTER DT.18.3.02 FROM SHAJAHAN.

EXTP26:- COPY OF THE NOTICE DT.23.402 ISSUED BY PETITIONER.

EXT.P27:- COPY OF THE AGREEMENT EXECUTED BY SURESH KUMAR K. DT. 1.1.01.

EXT.P28:- COPY OF THE NOTICE ISSUED BY PETITIONER TO SURESHKUMAR DT.10.6.00.

EXT.P29:- COPY OF THE BILL FOR THE MARCH, 01 ISSUED BY YATRA ASSOCIATES BEDROLL SERVICES DT.1.7.02.

EXT.P30:- COPY OF THE BILL FOR THE MONTH OF APRIL, 01 ISSUED BY YATRA ASSOCIATES BEDROLL SERVICE DT. 1.7.02.

EXT.P31:- COPY OF THE BILL FOR THE MONTH OF MAY, 01 ISSUED BY YATRA ASSOCIATES BEDROLL SERVICE DT.1.7.02.

EXT.P32(a):- COPY OF THE PHOTOGRAPH PETITIONER'S PLANT WITH MACHINERY.

EXT.p32(B):- COPY OF THE PHOTOGRAPH OF PETITIONER'S PLANT WITH MACHINERY.

EXT.P32(c):- COPY OF THE PHOTOGRAPH OF PETITIONER'S PLANT WITH MACHINERY.

EXT.P32(d):- COPY OF THE PHOTOGRAPH OF PETITIONER'S PLANT WITH MACHINERY.

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EXT.P32(e):- COPY OF THE PHOTOGRAPH OF PETITIONER'S PLANT WITH MACHINERY.

EXT.P32(f):- COPY OF THE PHOTOGRAPH OF PETITIONER'S PLANT WITH MACHINERY.

EXT.P32(g):- COPY OF THE PHOTOGRAPH OF PETITIONER'S PLANT WITH MACHINERY.

RESPONDENTS EXHIBITS

EXT.R3(A:- COPY OF THE MINUTES OF THE TENDER COMMITTEE DT.9.4.02.

EXT.R3(B):- COPY OF THE MINUTES OF THE TENDER COMMITTEE DT.2.5.02.

EXT.R4(A):- COPY OF THE AGREEMENT ENTERED INTO BETWEEN THE SOUTHER RAILWAY AND THE RESPONDENT NO.4.

EXT.R4(B):- COPY OF THE AGREEMENT DT. 30.3.02 ENTERED INTO BETWEEN THE MANGER, HOTEL SAMUDRA, TRIVANDRUM THE RESPONDENT NO.4.

/TRUE COPY/

tss

KURIAN JOSEPH, J.

O.P.No. 25110 of 2002

Dated this the 14th day of February, 2007

JUDGMENT

The issue pertains to award of a contract for the supply of certain materials to the Railways during 2002. In view of the intervening developments, it is fairly clear that the petitioner has to work out the surviving grievances, if any, before the civil court. Without prejudice to such liberty, this writ petition is dismissed making it clear that in the event of the petitioner approaching the civil court, the time taken for prosecuting this writ petition will be excluded while computing the period of limitation.

(KURIAN JOSEPH, JUDGE)

ahg.

KURIAN JOSEPH, J.

O.P.NO.25110/2002

JUDGMENT

14th February, 2007